

1 Phil. 726

[G.R. No.979. February 12, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS, EUSEBIO SANTA CRUZ, DEFENDANT AND APPELLANT.

D E C I S I O N

LADD, J.:

The defendant was convicted in the court below of robbery with violence to the person, and has appealed. The case of the prosecution rests mainly upon the testimony of the person alleged to have been robbed—one Ri-Jhorumal, who is a young Hindoo boy employed in a shop on the Escolta in Manila. He testified—and to this extent his evidence is corroborated by his employer—that he was sent by the later to the Tondo market to buy thread and given ten pesos in silver for the purpose. He states that he was robbed of this money in a street near the market by two men, one of whom held his hand over his mouth while the other took money out of his pocket and ran away. He identifies the defendant as the man who held his hand over his mouth. He says that one Claudio Subit saw the occurrence, but Subit, having been called as a witness for the prosecution, denies this. On the part of the defense there was evidence from several witnesses which if believed establishes an *alibi*.

It is somewhat improbable that such an occurrence as that related by Ri-Jhorumal should have taken place in broad daylight in a central portion of a large city without attracting some one's attention, and in view of this improbability, and in the absence of corroborating circumstances, we can not say that the evidence wholly excludes a reasonable doubt as to the guilt of the accused.

The judgment of the court below is reversed with costs *de officio*, the case to be returned to that court for proceedings in conformity with this opinion. So ordered.

Arellano, C. J., Torres, Cooper, Willard, and Mapa, JJ., concur.

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